

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

November 19, 2012

---

No. 11-30545  
Conference Calendar

---

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

TOMMIE L. THOMAS, JR.,

Defendant - Appellant

---

Appeal from the United States District Court  
for the Western District of Louisiana  
USDC No. 5:10-CR-261-3

---

ON REMAND FROM THE SUPREME COURT  
OF THE UNITED STATES

Before JOLLY, JONES and SMITH, Circuit Judges.

PER CURIAM:\*

After our opinion was issued in this case, the Supreme Court decided *Dorsey v. United States*, 132 S. Ct. 2321 (2012). *Dorsey* held, contrary to our opinion, that the more lenient penalties of the Fair Sentencing Act (“Act”) apply

---

\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

No. 11-30545

to offenders who committed an offense before the Act was passed, but were sentenced after the Act was enacted. We VACATE and REMAND this case for resentencing consistent with the Court's holding in *Dorsey*.

**Conviction AFFIRMED; VACATED and REMANDED for Resentencing.**